

that number, but if it's the amount of Federal money that is being contributed to Alaska, then that depends on the number of Lifeline/LinkUp customers and we don't know that number.

I imagine the FCC is not going to deny an application merely because that's -- the utility may be interpreting the public notice in one manner that the FCC necessarily didn't intend.

Phil has also pointed out that the eligible carriers must provide the Universal Service Fund administrator a copy of the decision granting them eligible carrier status, so that's not something that we necessarily are doing for them. And if you want we can add that to this letter at tab 5 saying we're not sending them a copy of your eligible carrier order, you've got to do that, too, but I think that's clearly their obligation. I don't think there's much ambiguity but, if need be, we could put that in the letter as well.

CHAIRMAN COTTEN: Yeah, that might be helpful. I mean it's -- I think that Commissioner Cook's got a good point that we should do what we can to make sure that they understand the responsibility that we're reminding them that they have, and so it may be sufficient just to include specific direction in the letter itself.

MS. KENYON: Okay.

CHAIRMAN COTTEN: Commissioner?

COMMISSIONER HANLEY: Yeah. You just made reference, Lori, to -- I'm not sure what number, whether it's the State

number or Federal number that goes into the information that's being requested. Do we have any way of determining what they're looking for there?

MS. KENYON: I can give them a call and find out. I think they're probably looking for the State number, but.....

COMMISSIONER HANLEY: That would be helpful for them, too, I mean if we don't know, if we're not sure I would assume that they're not sure either. And if we could reduce any of that confusion and find out if it's a State number. And you said that's an easy number to come up with, then I think that would be helpful, too, but.....

MS. KENYON: Okay.

COMMISSIONER HANLEY: .....I guess I'm concerned because of the tight time frame here that.....

MS. KENYON: Uh-hum.

COMMISSIONER HANLEY: .....anything that -- I recognize it's each carrier's responsibility, but anything we can do to make it easier for them to comply or certainly give them the very definite information that they have to have in that letter so that they're not -- you know, they don't have questions when it comes to putting this information together. I think that would be -- I think we should do that.

MS. KENYON: Okay. I'll give a call to the FCC. If I don't get an answer for them by the end of the day I would still like to send out the letter today just because of the timing.

COMMISSIONER HANLEY: Okay. But if you could try to get that information I would appreciate it. Thank you.

CHAIRMAN COTTEN: Mr. Lohr?

MR. LOHR: Thank you, Mr. Chairman. One thing we might do, given the urgency of the compliance -- confirmation of the compliance by January 1 would be to go ahead and send the letter today and then distribute any additional information that we receive, any details on numbers and so forth, through the Web Page and indicate in the letter that we send today that that's how we'll do it, that if any additional information that would be useful in replying becomes available the Commission would publish it on the Web page, which I believe most all if not all the telephone utilities would have access to.

COMMISSIONER HANLEY: They would or they would not?

MR. LOHR: They would.

COMMISSIONER HANLEY: They would.

MR. LOHR: Yes.

CHAIRMAN COTTEN: Commissioner.

COMMISSIONER COOK: And I assume you're working with ATA on this as well?

MS. KENYON: I've been in contact with Mr. Rowe, but I don't believe -- we have not discussed this letter.

COMMISSIONER COOK: Okay. Well, I'm just thinking that might be also another means to facilitate disseminating this information, so that's all I've got. Thank you.

CHAIRMAN COTTEN: I'm just thinking about how we'll know whether they've all done it. And maybe we ought to ask them to -- or do we care? I mean we should care, I guess, but maybe we should ask them to send us a copy.

MS. KENYON: Okay. That's a good idea.

CHAIRMAN COTTEN: So then it sounds like you're going to do some reconstruction on this letter.

MS. KENYON: Right. I'll do that, work on that. There's a high priority today to get that out. Do you want to see the final draft before it's sent or just.....

CHAIRMAN COTTEN: Why don't you give us all a copy, and then rather than do it by circulation so make sure we all get one, so if we have any comments we can get back to you otherwise. Is that satisfactory?

COMMISSIONER ORNQUIST: Why don't we use E-mail for that (ph)?

CHAIRMAN COTTEN: Put it on E-mail will probably.....

MS. KENYON: E-mail? Okay.

CHAIRMAN COTTEN: Sir?

COMMISSIONER COOK: I just want to thank publicly both Anita Hammond and Bobbie -- what's Bobbie's last name?

CHAIRMAN COTTEN: Seelinger.

COMMISSIONER COOK: Seelinger. I'm sorry. They really put in a lot of hours trying to get this out and they've done an outstanding job. And I just want to be sure that we recognize them for the work they've done on this.

CHAIRMAN COTTEN: Hear, hear.

COMMISSIONER COOK: And Jeanne McPherrren as well. I'm sorry. I'm looking at you and ignoring you.

CHAIRMAN COTTEN: All right. Just to make -- I assume that neither Mr. Rowe or anybody else in the audience had any comments or suggestions on this topic they would have raised their hand by now. So it sounds like everybody's happy.

Okay. Well, let's just -- I think the next item is going back to number 3. I know we have some comments from the executive director, but we'll recess at this time until Commissioner Posey is here. Commissioner Posey was out of town for a couple of days, got in late last night, but reportedly is on his way, so we should be back in in a few minutes.

(Off record - 9:24 a.m.)

(On record - 9:33 a.m.)

CHAIRMAN COTTEN: Back on the record. Okay. The next item we skipped over was Item number 3, which was R-97-1 scheduled today for action by the Commission. The initial activity was a petition by GCI for a declaratory ruling and/or waiver. So everybody, I think, understands the issue that's before us.

And I just spoke with Ron Zobel, the Assistant Attorney General, before this meeting and asked him to give a couple of comments on procedure and form here as far as, for example, should the Commission wish to waive or declare that the regulation has been preempted, what form should the motion take,

what specific action could the Commission take to accomplish that should they desire to do so. And, Mr. Zobel, maybe you could reiterate our previous conversation there so that we can frame the question or maybe improve our ability to frame the question.

MR. ZOBEL: I think you have probably three options here. The first I really didn't discuss with you before, but it's just to deny the petition. I mean that is one option.

If you accept the argument that has been made that Section 253 of the Telcom Act preempts this regulation, you could recognize that. Recognize that 253 has preempted it and that it is unenforceable and then initiate a repeal. I think that would estop you from enforcing it in the meantime. I can't tell you that I have -- I'm not aware of specific examples of where that has been done, but I believe that I am correct that you couldn't enforce it if you made such a declaration. It would estop you from doing that.

The third is the choice of simply initiating a repeal. The regulation is on the books. It is law. If -- you could issue a notice which recognized that GCI has raised substantial questions about the continued legality of that regulation, has raised substantial questions about the preemption, and notice it up for repeal. And then the decision on whether to actually repeal it would be made after you've completed the APA process, had the hearing and then voted on that repeal.

That's just a little -- the regulation will remain on the books and you would not have made the decision as to whether -- on the issue of preemption or the issue to repeal it. That would be made later. That's, of course, the disadvantage there in terms of meeting the -- what the petitioner's asked, it gives them no assurance that it will be repealed. It still kind of leaves the issue there. But that's c- -- that may be what the Commission wishes to do. That's an option. So I think those are your three choices in view of this petition.

CHAIRMAN COTTEN: If I could just explore one of the details there. If the Commission were to declare a regulation unenforceable and the regulation stayed in our regulations it would still take a standard repeal process to remove that or would there.....

MR. ZOBEL: Yes.

CHAIRMAN COTTEN: .....be another method of removing that?

MR. ZOBEL: No. You would -- I actually meant to suggest that in combination with the repeal. Yes, you should still take it off the books, but you would have recognized that it's unenforceable. That's the part that is different than (ph) the third alternative. So you can do nothing, you can recognize that it is unenforceable and initiate a repeal, or you could just initiate a repeal.

CHAIRMAN COTTEN: I see. Now, if we declared that it was unenforceable and initiated a repeal we'd still have to have a hearing?

MR. ZOBEL: You would still have to have a hearing on the -- under the APA on the repeal of the regulation.

CHAIRMAN COTTEN: So the final question, I think, at least for the moment, would that be a decision that could be reversed by a subsequent commission? I didn't ask you that one before, so -- in talking about that (ph).

MR. ZOBEL: I think -- well, certainly I don't -- I believe you'd be estopped. I mean if you declared it to be unenforceable because of the Section 253 problem, and then you'd turn right around and tried to enforce it I think there would be a very strong argument about estoppel.

Now, if the Commission came -- revisited the question and said, because of some event, maybe you have an FCC decision that comes down, we think -- we change our mind that this is now enforceable. I think if you announce that, then maybe you would no longer be estopped. I think you could probably change course there. It would be very untidy, but I'm not going to tell you you could not change course there as long as it is still on the books. But,.....

CHAIRMAN COTTEN: So mostly likely then, if we declared the regulation to be preempted or unenforceable the hearing that would follow in order to complete the formal repeal process



would be just a formality because we would have already made the decision, am I correct there?

MR. ZOBEL: I certainly think it anticipates that you will repeal it. Like I just said before, could you change your mind at that point? I think you might be able to change your mind at that point. It's not off the books till you repeal it. It's not off the books, but you are recognizing that it's not enforceable in view of Federal law.

Now, if you -- after hearing it you -- for example, one of the things that we have not really given a whole lot of emphasis to is -- and certainly not when we originally discussed this, the original memo I did. The FCC decisions are showing that there's a first stage here, and that is you would have to show that the regulation is necessary. And if you went through a hearing process to repeal and there was evidence to show where you could make findings that it's necessary, maybe you could change your mind at that point. But what I'm saying is you need to announce this. I mean if you announce that you're not going to enforce it, then I think you're stuck with that. Could you reverse that at another meeting? Maybe.

CHAIRMAN COTTEN: Of course, the burden on the parties that might have relied on that initial decision could be fairly large.

MR. ZOBEL: Yes, I think if you get people relying on what you said, yes, I think that that would be further argument for estoppel.

CHAIRMAN COTTEN: So unless somebody else wants the floor here I've got another question on the time line. I don't have the transcript, but it seemed like there was an agreement, at least on the part of the one party here, GCI, that they probably wouldn't take any action as a result of this until probably what, six or eight months from now. I can't remember exactly the way it was put, but in light of that if we just went the straight repeal process what kind of time line would we look at there? For example, we'd issue a notice and that would be for -- what's the notice period?

MR. ZOBEL: It's a minimum of 30 days.

CHAIRMAN COTTEN: 30 days. And then hold a hearing, and then decide on the repeal. And then I think your conventional wisdom has been once it gets to your desk you can usually .....

MR. ZOBEL: I can get it to Mr. Chinowith very quickly as a repeal.

CHAIRMAN COTTEN: As a repeal. It'd be.....

MR. ZOBEL: I will have already dealt with the issue and I try to get them off my desk within 30 days, very quickly. And this will be very simple, a repeal that I've already dealt with, so.....

CHAIRMAN COTTEN: Sure.

MR. ZOBEL: But I am told -- actually the last time I checked with Mr. Chinowith he was less busy than he is right now. I understand there's been some DEC regulations that have really consumed him. And I've also been cautioned, all of us

have been cautioned not to make any firm promises about what he can do in terms of time. So these are kind of -- these are estimates by me at best.

One other thing that Jimmy Jackson just brought to my attention, and yes, it is true that you could do comments under the APA. I spoke of a hearing because that has been your custom. You usually have a hearing when you're going to do action on regulations. Technically, I think, you could probably do that with comments, but that would be out of the norm for this agency.

CHAIRMAN COTTEN: We've already had one hearing so that might lend justification for allowing only comments, but that'd be a decision of the Commission, of course.

MR. ZOBEL: True.

CHAIRMAN COTTEN: Any other comments or questions? Any motions?

COMMISSIONER COOK: I'll let you.....

CHAIRMAN COTTEN: You have the floor.

COMMISSIONER COOK: Thank you. You were doing such a good job I didn't want to slow you down. It really seems to me after giving thought to this that it really boils down to two separate and distinct questions. One is a legal question and one is a policy question. The legal question is whether or not we've been preempted by the FCC and the Telecom Act. And a separate and distinct issue is a policy issue of whether or not

we favor lifting the ban irregardless of what the FCC and the Telecom Act have done.

Taking the first issue, I think that there's people on both sides of the issues, some believing that we have been preempted and some believing we haven't been preempted. And my personal opinion is that I don't think the FCC has preempted us. And if they haven't, then I don't think it's appropriate to lift the ban as a policy -- for policy reasons in the guise of preemption. Either we have been preempted or we haven't. If we have say we have, but don't do it in the guise of trying to set some other policy.

So on the legal issue I don't believe that we've been preempted. I think that particularly after listening to what Commission Ness said the other say that the FCC recognizes that there are exceptional circumstances here in Alaska and that was recognized in the Act.

On the policy side of the issue, it seems to me that we need to look a little closer at it. GCI has had their 50 site demonstration project. I'd like to see what the results are. I haven't seen any definitive definition of how it worked, what the pluses are, what the minuses are, what it's brought to the villages, what it's taken away from the villages. It may be appropriate to lift the facilities ban. If it is that's a policy issue. Let's make it a policy call on objective grounds and objective research. So I guess on that side I would say let's -- I would think either table this issue or delay it until

we have a little more definitive answer on how well the demonstration project has worked. That's what -- kind of my position at this point.

CHAIRMAN COTTEN: Commissioner Hanley?

COMMISSIONER HANLEY: Perhaps going along with what Commissioner Cook said and looking at Section 253 and the removal of barriers to entry (b) under that section talks about the requirements, nothing in the section shall affect the ability of a state to impose requirements necessary to preserve and advance Universal Service, protect the public safety and welfare, and ensure the continued quality of telecommunications services. I still have a lot of questions. I have questions about what impact it will have on Universal Service, access charges, local exchange markets and rates. Have we resolved all of the interconnection problems? I, too, would very much -- I supported the 50 site DAMA project. I'm anxious to see what has been achieved through that project. I appreciate GCI's aggressive presence in the telecommunications industry. I think they're keeping us all on our toes. And I'm willing to look at each one of these issues as a separate issue.

On this particular question as far as the policy at this point I'm not willing to say let's just repeal the reg. To me it's premature. I need some more information. It's a timing question. And so I guess I'm not completely sure how best to proceed because my question is timing. At this point I'm not willing to say yeah, let's great, let's just repeal the

regulation and do what we have to proceed in that direction. I have more questions about Universal Service, access charges, what we've achieved or what GCI has achieved through the 50 site demonstration project, and what has been the benefit to the consumers. And maybe all those things have very positive answers, in which case I'd be very comfortable in proceeding then with the repeal. So for me it's timing and I'm not comfortable at this particular time in going forward with the repeal.

CHAIRMAN COTTEN: Any other comments or is there a motion? Do you want the floor, Mr. Posey?

COMMISSIONER POSEY: I'll take the floor. I have given it a great deal of thought and taken a look at the 1996 Telecom Act and a great deal of discussion about what the purpose of it and what it wasn't. The real issue is how does it impact this decision and as well as all of our other decisions that are driven by 253, 254, 251, 271 in the Lower 48, is what is its ultimate impact going to be on the consumers who pay for all of this basically. Nobody does this for gratis.

We have a number of concerns that we in Alaska have to look at separately. We have to understand the impact on not only the urban or more urban community, but also those in the rural areas. Provider of last resort, as Alyce mentioned, Universal Service. Those are issues which if we make this decision today we should have ready answers for. And I'm not

sure we have ready answers for all of the questions that are driven by this.

I wasn't here when the 50 site DAMA demonstration was voted on, but I'll admit that we haven't seen the answers from that site demonstration project and I would like to see those. So I'm more in the line of looking at this as tabling it so that we can answer some of those questions and know exactly what the impact is going to be on the consumers as we move forward because in the end that's it. If we're not providing better service, faster service to the consumers and fair service to everyone up and down the line regardless of whether they're big payers (sic) into the system or small players (sic) into the system, all those issues need to be looked at. And I think we can do it within a stated period of time. So I'm also for tabling it.

CHAIRMAN COTTEN: Commissioner?

COMMISSIONER ORNQUIST: Thank you. I would -- in fact, I readily say that it certainly would be nice to see the information from the 50 site DAMA project. I think it would be nice to know answers to all the questions that have been raised before we make a policy call, and I think we should. However, I don't get the point when I look at this, that we need -- that we're making a policy call different than Commissioner Cook. I think I get stopped right at the legality portion. And the reason I say that is when I look at 253(b) the very first thing that it says is that we can, in fact, impose requirements, but

the first requirement it puts on us to do so is we must do it on a competitively neutral basis. Now, there's no way this is competitively neutral. Consequently, we're over-ridden. I think that's only too clear. And when I read through the rest of it, it hasn't been shown to me that this is absolutely necessary to preserve and advance Universal Service. It hasn't been shown that it's also necessary to protect the public safety and welfare. It hasn't been shown that it's necessary to ensure the continued quality of communications. And it hasn't been shown that it's necessary to safeguard the rights of consumers.

The intent of the Teleco Act of '96, of course, is to bring competition to a greater degree in the telecommunications industry. And I think that the regulation we have on the books is totally, completely 180 degrees the other direction. It may even have been a good regulation when we put it in there, but according to the Telecommunications Act and the FCC the requirements that are placed on us as a State regulatory authority, I don't think that that regulation is enforceable anymore. I believe we have been superseded on this, and specifically and blatantly on the part where it says that it must be competitively neutral. Sorry. It's not competitively neutral at all. So I don't get to the part where we have any kind of policy call to make.

CHAIRMAN COTTEN: I'd rather just be quiet, but everybody else has expressed their thoughts on it I will, too. I think it's true there are two questions, one legal, one



policy. I think the legal question is in black and white. I think it's clearly not in conformance with the Telecom Act. I think it's pretty clear from my reading of the Telecom Act and our regulation that we are not in compliance with the Telecom Act.

That brings us to a third question, now, whose job is it to declare us to be preempted? For example, if I like the policy but agree that it was not in conformance with the Federal law, is it my job to preempt myself or is the FCC's job to preempt the State regulation? But -- so I do go to the policy question. After I determine that it's probably not in conformance with Federal law, I think that for policy reasons that I'd feel comfortable lifting and repealing this regulation as well, so that's where I am on it.

Does anybody want to make a motion?

COMMISSIONER COOK: If you've got a better one.....

COMMISSIONER HANLEY: Mr. Chairman, I was going to move that we table the petition regarding the legality of the facilities restrictions in 3 AAC 52.355(a) until the first public meeting in June, six months from now.

CHAIRMAN COTTEN: May I suggest from a parliamentary point of view that that motion wouldn't be in order because there's really no motion in front of us. It would be in order if there were a motion to accept it, then you could table that motion. If we take no action then nothing happens, so you don't

need to table it. So the only time you need to table something if there's an active motion in front of you.

COMMISSIONER HANLEY: Active motion.

CHAIRMAN COTTEN: And if there is no motion then we do nothing. And that's, I think, clear to the public, you know, what's taken place. So, sir?

COMMISSIONER COOK: May I make an alternative. I would -- I don't know whether to make this in the form of a motion or just a suggestion to Staff, maybe a motion would be better. That we have Staff develop a report on how the DAMA sites have been working, what the impacts are, and come back to us because I think there is a legitimate policy question here that we need to address.

COMMISSIONER POSEY: Second.

CHAIRMAN COTTEN: Well, why don't we break from the formality of it for just a moment and maybe ask Staff what they may have already accomplished and how they see the development of the information you're talking about. I don't think there's going to be any opposition to what you're suggesting here. Either, Ms. McPherren, I know you've had some experience with this and, Mr. Lohr, maybe we could get a response out of both of you and whoever wants to go first is fine. Would you like to?

MS. MCPHERREN: I do know that as far as several of the utilities that we've been working on in a couple of the complaint cases that GCI filed, a lot of the interconnection is going forward, but I'm only familiar with the ASTC and the ITC

Mukluk ones. I'm not familiar with the other interconnection issues that the rest of the Staff might be familiar with.

CHAIRMAN COTTEN: Mr. Lohr?

MR. LOHR: Thank you, Mr. Chairman. I think I would immediately defer to common carrier staff on the specific requirements in the 50 village waiver order concerning ongoing reporting and what, if anything, they might do to accelerate the process of providing information on that subject.

CHAIRMAN COTTEN: Ms. Kenyon?

MS. KENYON: I hate to pass the buck one more time, but Bill Marshall is by far the one who was most expert in the status of it. Last time I checked I believe that the utilities had to file reports. I thought it was every six months. And those reports had quite a bit of detailed information telling you, like, where they are, how much revenues they're getting, things like that. I haven't looked at the last report to tell you what the status is. I think the last time that I did look at it what I do remember is I don't know that the DAMA project was as yet making money. We could certainly develop a report to you with the most current information.

CHAIRMAN COTTEN: Commissioner?

COMMISSIONER COOK: I guess I'm looking for something, you know, a little broader based than that. Not just whether it's making money, but the whole sphere of interconnection ramifications to access charges, ramifications on Universal Service, public interest. And I don't know that it would be --

I guess I see you pulling information not just from GCI but from all of the affected utilities as well as just the public interest. I mean maybe this is a reg change and we need to have a hearing on it is really where I'm going as I think about it because this is a big issue. I mean we're talking about a policy change.

MS. KENYON: Would you like us -- some of the information you're asking for I don't believe is specifically up to date and on the record. For example, I don't know as we have detailed information from each of the LECs as what they perceive to be the effects of the DAMA projects on themselves. I mean we could take a guess at what we think that is, I don't know as we have any evidence per se in that regard. So one thing you could do is ask the LECs to provide that evidence or Staff could through letter, but is that -- how formal do you want to be about the process?

CHAIRMAN COTTEN: One possibility would be that you could begin by reporting to the Commission as to the compliance with the reporting requirements and the order on the 50 site plan. I believe there were some. I'm not.....

MS. MCPHERREN: It's continuing. I think it is six months, and I think the last one was made when we discussed this at the last public meeting. I want to say April or June or something like that, so the next one would be coming due here shortly, I think.

CHAIRMAN COTTEN: That doesn't sound like that'd be much of a lengthy effort to begin with that and, perhaps, the Commission then could add more specificity as to what other information would be required. I'm just trying -- I'd like to, you know, try to help get it off the dime here and.....

COMMISSIONER COOK: It'd be at least a good catalyst to getting an idea of where we're at, so I think that's a good point. Maybe -- has anybody figured out when the next report is due?

MS. KENYON: I think it is in early next January or something like that. I think it is January and June, something like that.

COMMISSIONER COOK: So why don't we just wait, kind of table it until then and have a report, and from that report we can use that as a catalyst to determine where we need to go from there. Does that sound -- seem acceptable?

CHAIRMAN COTTEN: It sounds like we've got a start. Mr. Ornquist has the floor.

COMMISSIONER ORNQUIST: I think it would also be good when you're getting input from the LECs somehow to get input from the customers in the areas that are affected by the DAMA project and see what their view -- if they've got more services that are available now, if the quality has gone up since the announcement of the DAMA project, and things like that. So not just -- not just industry comments, but also I think it would be good hear or understand, maybe industry can provide this, if

quality has gone up and if services -- there are more services available and capabilities have increased.

The other thing is we may well still want to open the R docket at this time and begin the process of looking at it while we wait for that information to come in. So good point. So move forward with that, I guess, is we could still open up a comment period and allow industry and consumers to go ahead and begin the comments now, so that if we decide, in fact, that we do need to review it or if we want to take action we'll already have that piece out of the way. It won't delay us.

MS. KENYON: If we're going to do that. I'm not sure I'm clear as to whether the R docket would be the status of the DAMA project or the status of the regulation.

COMMISSIONER ORNQUIST: Let me change what I was saying so it's more clear here. We've already got an R docket open.

MS. KENYON: Right.

COMMISSIONER ORNQUIST: And when I said open another one I totally blew that away. What I really mean is continue this R docket and open it up for comment on whether or not we should be removing this.....

COMMISSIONER HANLEY: Consider of repeal (ph).

COMMISSIONER ORNQUIST: Exactly, just considering it, what the impacts are. Go ahead and allow comment during this period while we're waiting for the Staff report on the DAMA project. And we'll have all the information at probably right around the same time, the end of January or so, that would allow

us to review it all and maybe in a February public meeting decide what we're going to do from there.

MS. KENYON: If you take that route, Mr. Zobel, if they ask for comments on the repeal does that mean that we effectively have to propose the repeal or do we just say we are thinking about the repeal? I'm not -- that's the point, I'm -- I just want to make sure because I'm probably going to be the one to draft the order and I don't want to.....

CHAIRMAN COTTEN: Well, yeah, that's a technical question. I'd like to explore just a general idea here for a just a moment if that's -- it may be that we'd want comments from the parties that will probably be involved, but we may want to -- before we even ask for them, develop some specific questions. It may be that our Staff can come to us and say, well, they've met the reporting requirements of the order. Here's what we know. Here's what we don't know. You might want to ask the parties these questions, instead of asking them how they feel about a repeal at this point. You might have some very specific questions about activities that are taking place, interconnection difficulties, what facilities have been built in addition to the DAMA's, you know, the satellite dishes. There may be a whole list of things we'd like to know and that might be better rather than just asking them how they feel about a repeal. I think we already kind of know that.

COMMISSIONER ORNQUIST: Well, I think that's a great idea. I think having all those questions in there would be good.

along with, you know, tell us about the repeal and, you know, what you see on that. You know, certainly don't exclude any of those options.

CHAIRMAN COTTEN: I'm picking up a consensus here that the Commission is not likely to take action today. We haven't had a motion offered, so I think that's meaningful. I think that the Staff's had some direction here that they're to report back to the Commission with what they know at this point. Mr. Cook?

COMMISSIONER COOK: Just to keep the record straight, there was a motion for Staff to do a report and I think Commission Posey seconded it.

CHAIRMAN COTTEN: And I'll assume that unanimous consent.....

COMMISSIONER COOK: I'll either withdraw it or -- I just want to be sure.....

CHAIRMAN COTTEN: Okay. That's fine. I assume that you asked for unanimous consent and.....

COMMISSIONER COOK: Yes.

CHAIRMAN COTTEN: And hearing no objection that is what the Commission would like. But I'm trying to make sure that Staff has good direction at this point as to what they're expected to produce. And it sounds like we're going to have an initial report from Staff, an analysis by the Commission, and perhaps a request for more information or, perhaps, a notice to



the affected parties and asking them to comment on specific questions. So step one would be the initial report from Staff.

UNIDENTIFIED VOICE: On DAMA?

CHAIRMAN COTTEN: Yes. Commissioner?

COMMISSIONER ORNQUIST: I was thinking that we could put the comment -- open the comment period at this time as well. Well, as soon as we could get an order out so we could run the Staff report parallel to the comments coming in as much as we can. And, in fact, if we do that we could even leave the comment period open more than 30 days if we thought that would be helpful.

CHAIRMAN COTTEN: I'm just not real clear on what we'd be asking people to comment on.

COMMISSIONER ORNQUIST: I think the questions that you were talking about. If we issued an order that said we are inviting comment on this regulation in question. Whether it should or shouldn't be repealed is the general thing and why. Then also all the specific questions that you had just mentioned and any other Staff can come up with. That way we can begin the comment period right away running it parallel with the time Staff is doing the report.

CHAIRMAN COTTEN: I guess I envisioned Staff giving us a report within, you know, within a week, the initial report.

COMMISSIONER ORNQUIST: I don't think they have the information yet.

CHAIRMAN COTTEN: Well,.....